

REMARKS

Claims 39-44 are withdrawn from consideration. Claims 20, 21, 26 and 29 are rejected.

Claim 20 is amended to delete recitation of regions having low, e.g. 75%, sequence identity with the sequences defined by various SEQ ID NOs. Claims 21-38 and 45-52 are canceled without prejudice or disclaimer. No new matter is added. Upon entry of this amendment, Claims 20 and 39-44 will be all the claims pending in the Application. Entry of this amendment is respectfully requested.

I. Rejoinder of Method Claims

At page 2 of the Office Action, the Examiner acknowledges Applicants' request for rejoinder of method claims 39-44. Applicants kindly request that should Claim 20, as amended herein, be found allowable, Claims 39-44 should be rejoined as a matter of right as being directed to methods of using the invention of Claim 20.

II. Claims 39-44 are Proper

At page 2 of the Office Action, Claims 39-44 are objected to because the claims display the wrong status identifier.

The correct status identifiers are now displayed. The Examiner is thanked for bringing this to Applicants' attention.

Withdrawal of the objection is respectfully requested.

III. Claim 20 is Adequately Described Under 35 U.S.C. § 112, First Paragraph

At page 4 of the Office Action, Claims 20, 21, 26 and 29 are rejected under 35 U.S.C. 112, first paragraph, for allegedly lacking adequate written description. The Examiner asserts that Applicants have not demonstrated that variance of 25-50% of the nucleotides would result in a functional promoter.

Initially, Applicants note that Claims 21, 26 and 29 are canceled herein, rendering moot the rejection of these Claims.

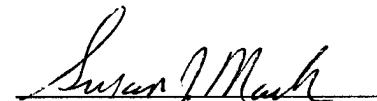
With regard to Claim 20, to advance prosecution, Applicants herewith amend Claim 20. The Amendment overcomes the rejection.

Accordingly, withdrawal of the written description rejection is respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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Date: February 11, 2008